

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander DeSantis	Team: Team # 6	CCRB Case #: 200507025	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/14/2005 3:30 AM	Location of Incident: § 87(2)(b)	Precinct: 71	18 Mo. SOL 12/14/2006	EO SOL 12/14/2006	
Date/Time CV Reported Mon, 06/20/2005 3:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/22/2005 2:18 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Matthew Cahill	04882	932397	071 PCT
3. POM Christian Roth	01288	931103	071 PCT
4. POM Peter Gulizio	04859	931492	071 PCT
5. POM Michael Houlihan	01530	919940	071 PCT
6. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Moschetto	03165	930786	071 PCT
2. SGT Stephen Espinoza	92524	925246	071 PCT
3. POM Jeffrey Peterkin	26892	916433	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Houlihan	Discourtesy: PO Michael Houlihan spoke rudely to § 87(2)(b)	§ 87(2)(b)
B.POM Michael Houlihan	Force: PO Michael Houlihan struck § 87(2)(b) with a radio.	§ 87(2)(b)
C.POM Matthew Cahill	Force: PO Matthew Cahill struck § 87(2)(b) with an asp.	§ 87(2)(b)
D.POM Matthew Cahill	Force: PO Matthew Cahill used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Peter Gulizio	Force: PO Peter Gulizio used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Christian Roth	Force: PO Christian Roth used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Michael Houlihan	Force: PO Michael Houlihan used physical force against § 87(2)(b)	§ 87(2)(b)
H. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	§ 87(2)(b)
I. An officer	Abuse: An officer did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	
K. Officers	Force: Officers used physical force against § 87(2)(b)	

Synopsis

§ 87(2)(b), § 87(2)(g)

On June 14, 2005, § 87(2)(b) returned to his home at § 87(2)(b) in Brooklyn and saw that it was on fire. At the time when § 87(2)(b) arrived, there were already numerous police officers and firefighters at the scene. Out of concern for his family's safety, § 87(2)(b) rushed up the steps to the front doors of the building and saw that firefighters were attempting to remove an injured person. A plainclothes officer said, "What the fuck are you doing, get the fuck out of here," and later added, "If you want to be a fucking hero, go to fucking Iraq" (allegation A). This officer then struck § 87(2)(b) in the head with a radio (allegation B). § 87(2)(b) turned away, and this officer struck § 87(2)(b) in the head with a radio for the second time. A uniformed officer in the area then struck § 87(2)(b) with an asp to his chest and back (allegation C), as other officers pulled § 87(2)(b) off of the steps. The officers took § 87(2)(b) to the ground, and they allegedly struck him approximately ten additional times (allegations D, E, F, and G). The officers handcuffed § 87(2)(b) stood him up, and transported him to the station house. While inside the patrol car, one of the officers told § 87(2)(b) to "shut the fuck up" (allegation H). At the station house, one of the officers asked § 87(2)(b) if he needed medical attention. Before § 87(2)(b) could respond, this officer said, "fuck it, you don't need medical attention" (allegation I). After § 87(2)(b) was arrested and removed from the scene, his sister-in-law, § 87(2)(b) also tried to enter the burning building. An officer told her to "get the fuck out of here" (allegation J) and then pushed her into a parked vehicle (allegation K).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Early in the morning of June 14, 2005, § 87(2)(b) returned to his home at § 87(2)(b) and saw that it was on fire. § 87(2)(b) immediately rushed up the stairs to the front door of the building because he was concerned about his family. At this point, § 87(2)(b) saw that firefighters were attempting to bring an injured individual (who he later found out was a firefighter) out of the building. § 87(2)(b) asked who the person was and reached down to assist. A plainclothes officer wearing an Atlanta Falcons jersey, PO1, then yelled out, "Get the fuck out of here." § 87(2)(b) protested because he was concerned for his family. PO1 then repeated "Get the fuck out of here," and pushed § 87(2)(b). § 87(2)(b) stated that he pushed the officer back, and PO1 then struck him with a radio. Several other officers then brought § 87(2)(b) down off of the steps and threw him to the ground, striking him several times in the process. § 87(2)(b)'s in-laws, § 87(2)(b) and § 87(2)(b) died in the fire.

CCRB Statements

The CCRB spoke with § 87(2)(b) over the telephone on June 24, 2005 (enclosure 6b) and interviewed him on July 1, 2005 (enclosures 8a-8f). § 87(2)(g)

§ 87(2)(b) is a § 87(2)(b)-old black male, 6'2", 285lbs, with long hair. § 87(2)(b) stated that he had not been drinking or using narcotics at any point prior to this incident.

On June 14, 2005, § 87(2)(b) was living at § 87(2)(b) (a two family unit) in Brooklyn with his § 87(2)(b)-old son, § 87(2)(b) his girlfriend, § 87(2)(b) and her parents, § 87(2)(b) and § 87(2)(b). On that date, at approximately 3:30am, § 87(2)(b) was driving home in his vehicle when § 87(2)(b) called him on his cell phone. § 87(2)(b) told § 87(2)(b) that their home was on fire and that someone had jumped out of the window. § 87(2)(b) stated that § 87(2)(b) was very emotional over the phone, and he could not understand exactly what was going on. § 87(2)(b) gave § 87(2)(b) no additional information, and he was concerned about the safety of his family. Approximately two minutes later, § 87(2)(b) arrived at the scene of the fire and parked his vehicle. § 87(2)(b) saw approximately five firefighters and several fire trucks as he approached, but noted that he did not initially see any uniformed police officers. § 87(2)(b) approached the front door of the building, and stated that nobody attempted to restrain him or instructed him to stay away. § 87(2)(b) walked up a few steps to the six-foot square landing area in front of the building's front doors and saw a plainclothes officer holding the doors open along with approximately two firefighters. PO1 was a white male, 5'7", 170lbs, in his thirties, wearing an Atlanta Falcons jersey and a baseball cap. § 87(2)(b) did not initially identify PO1 as an officer, but later saw that he was holding a radio and assumed that he was a police officer. § 87(2)(b) asked the firefighters about his family, and then immediately saw two firefighters pulling someone out of the doors in front of him. § 87(2)(b) did not know if this injured person was a family member (he later found out that it was a firefighter), and asked the firefighters who they were assisting. § 87(2)(b) also bent down and attempted to help the firefighters bring the injured individual out of the building.

At this point, PO1 said, "What the fuck are you doing, get the fuck out of here" (allegation A). § 87(2)(b) told PO1 that his family was inside and that he was concerned for their safety. PO1 then pushed § 87(2)(b) in the chest with his right hand. § 87(2)(b) took a small step back and raised his hands saying, "I was just trying to help." PO1 then grabbed § 87(2)(b)'s shirt, but he slapped PO1's hands away. PO1 then struck § 87(2)(b) with a radio above his left temple (allegation B). As a result of the blow, § 87(2)(b) took a couple of steps back and bumped into someone behind him. § 87(2)(b) was not sure if the person he bumped into was a firefighter, an officer, or someone else, but stated that it was not one of the firefighters that was dragging the injured individual out of the building. The person he bumped into pushed § 87(2)(b) forward, and at this point, § 87(2)(b) began to walk down the steps and away from the building.

§ 87(2)(b) believed that there were four officers in his immediate vicinity as he walked down the steps. PO1 was behind § 87(2)(b) on the right side, and PO2 was behind § 87(2)(b) to his left side. PO3 was in front of § 87(2)(b) on the right side and PO4 was in front of § 87(2)(b) on the left side. § 87(2)(b) was unable to describe PO2, PO3, or PO4, but he did state that they were all uniformed white males. As § 87(2)(b) was walking down the stairs (set of three steps), PO2 struck him with an expandable baton approximately four times (allegation C). § 87(2)(b) stated that two of the blows were to the left side of his hair and two of the blows were to the left side of his neck. § 87(2)(b) has long dreadlocks, and stated that his hair shielded him from the full force of these blows. PO1 then struck § 87(2)(b) again with a radio above his right eyebrow. PO2 then struck § 87(2)(b) again approximately four to five times with a small hard object to the middle of his chest. At this point, PO3 and PO4 then grabbed § 87(2)(b) by the shirt and pulled him to the ground. § 87(2)(b) fell down two steps and braced his fall with his left hand, right elbow, and right knee. As § 87(2)(b) was face down on the ground, he felt approximately ten to thirteen additional blows to his back, ribs, and legs (allegations D through G). § 87(2)(b) was unsure if these blows were from fists, feet, or objects. While he was on the ground, § 87(2)(b) tried to lift his head up, and an officer put his knee against the left side of § 87(2)(b)'s face, pinning the right side of his face against the pavement. The officers then handcuffed § 87(2)(b) and two uniformed white males stood him up holding his arms. § 87(2)(b) was unable to identify the two officers that stood him up, but stated that he believed one of the officers was PO4 (the other will be referred to as PO5). After § 87(2)(b) stood up, PO1 said, "What the fuck are you doing?" PO1 also told § 87(2)(b) that he was going to be held responsible for the firefighter's injuries. § 87(2)(b) told the officer that he was only trying to help, and PO1 responded, "You want to be a fucking hero, go to fucking Iraq." Then PO1 told PO4 and PO5 to "get this piece of shit out of here." PO4 and PO5 then escorted § 87(2)(b) to a marked patrol car at the corner of Kingston and Midwood. PO4 and PO5 placed § 87(2)(b) inside the vehicle and subsequently transported him to the 71st Precinct.

On their way to the station house, § 87(2)(b) tried to explain to PO4 and PO5 that he was only trying to help. In response, the officer in the passenger seat § 87(2)(b) did not know if it was PO4 or PO5 told § 87(2)(b) to "shut the fuck up" (allegation H). When they arrived at the station house, PO4 and PO5 escorted § 87(2)(b) to the front desk. A uniformed officer (PO6) behind the desk instructed § 87(2)(b) to remove his shoelaces and belt, and § 87(2)(b) complied. PO6 was a white male, 5'10", and 170lbs. PO4 and PO5 then placed § 87(2)(b) inside a holding cell. Either PO4 or PO5 § 87(2)(b) could not distinguish between the two) then asked § 87(2)(b) if he needed medical attention. § 87(2)(b) sat down on a bench inside the cell, but did not answer the officer. After three to four seconds, the officer said, "fuck it, you don't need medical attention" (allegation I). As a result of this incident, § 87(2)(b) sustained a cut below his left hairline, a bump on his forehead, and scrapes to his hands and knees and the right side of his face. § 87(2)(b) was clear that he never requested medical attention during this incident because his concerns were with his family.

§ 87(2)(b) was inside the holding cell for approximately twenty minutes when officers brought in § 87(2)(b) § 87(2)(b) sister. § 87(2)(b) was saying to herself, "Devil get away from me." § 87(2)(b) never told § 87(2)(b) what had happened to her, but § 87(2)(b) stated that she was not injured. § 87(2)(b) stated that § 87(2)(b) was not coherent, and was clearly emotionally distressed about the fire. After another thirty minutes, PO6 came to the holding cell area and asked § 87(2)(b) his name, date of birth, and some other questions about who he was living with at § 87(2)(b). PO6 informed § 87(2)(b) that the charges against him were going to be dropped, and then released him. PO6 also informed § 87(2)(b) that § 87(2)(b) and § 87(2)(b) had died in the fire. § 87(2)(b) walked back to § 87(2)(b) by himself. When he arrived there, he saw that § 87(2)(b) and his son were safe. § 87(2)(b) § 87(2)(b) and their son then went to § 87(2)(b)'s mother's apartment to spend the night.

On § 87(2)(b), § 87(2)(b) was watching television at his mother's apartment when he lost consciousness. § 87(2)(b) then went to § 87(2)(b) where he received a CAT scan. § 87(2)(b) stated that he is not sure about why he passed out, but believed that it may have been a result of this incident.

The CCRB made several attempts to show photographs to § 87(2)(b) of potential subject officers, specifically to see if he would be able to identify the subject of the allegations which occurred in the patrol car and at the station house. Between May 30, 2006 and June 28, 2006, the CCRB called § 87(2)(b) six times and sent two contact letters to his home address. § 87(2)(b) scheduled appointments to view photos on May 31, 2006 and June 5, 2006, but failed to appear at the CCRB.

Medical Records

The § 87(2)(b) Medical Records (enclosures 7a-7l) confirm that § 87(2)(b) was treated on § 87(2)(b). The attending physician noted that § 87(2)(b) stated that he passed out on that date. § 87(2)(b) also told physicians that he was assaulted by the police on June 14, 2005 and since that date he has been experiencing pain running up his back and headaches. § 87(2)(b) denied having a prior condition that would cause this pain. § 87(2)(b) obtained a CT scan, which showed no serious injury. Doctors instructed him to return if the symptoms worsened, and they instructed him to restrict his movement.

Notice of Claim

§ 87(2)(b) filed a notice of claim regarding this incident on § 87(2)(b) (enclosures 30g-30i). In the claim, § 87(2)(b) stated that he was "falsely arrested, imprisoned... battered and assaulted" by members of the NYPD. The claim goes on to state that officers handcuffed and struck § 87(2)(b) without probable cause to do so. The claim is for the amount of \$2,000,000.

§ 87(2)(b)

On June 30, 2005, the CCRB spoke with § 87(2)(b) over the telephone (enclosure 9a). On June 14, 2005, § 87(2)(b) called § 87(2)(b) and informed her that the building was on fire. § 87(2)(b) was not sure about what time she arrived at § 87(2)(b) but she did not witness § 87(2)(b)'s arrest and believed that it had occurred prior to her arrival.

When she arrived, § 87(2)(b) saw the building violently burning, but was upset because the Fire Department was not spraying water on the building. She immediately ran up to the front doors of the building and cleared away some debris. § 87(2)(b) saw a firefighter stumbling out of the building and helped him out. The firefighter was walking, but seemed to be somewhat lightheaded. § 87(2)(b) then ran to the fire truck and grabbed a hose. She was bringing the hose towards the building when a uniformed officer approached her. PO7 was a dark-skinned black male, 5'9", 230lbs, approximately 40 years old. PO7 told § 87(2)(b) to "get the fuck out of here" (allegation J). § 87(2)(b) then started to argue with PO7 because she was concerned about her family and did not feel as though there were sufficient rescue efforts being made. Two additional uniformed officers then approached § 87(2)(b). PO8 was a white male, 125lbs, with black hair. PO9 was also a white male, 155lbs, with black hair. PO8 and PO9 grabbed § 87(2)(b)'s arms and pushed her into a parked van (allegation K). PO8 and PO9 then handcuffed § 87(2)(b) and placed her inside a marked patrol car. § 87(2)(b) stated that she was struggling with the officers, and did not understand why she was being arrested. PO8 and PO9 then drove § 87(2)(b) to the 71st Precinct, and she was placed inside a holding cell. When she arrived at the holding cell, she saw her brother-in-law, § 87(2)(b). § 87(2)(b) had already been arrested, and § 87(2)(b) noted that his head was bleeding, and his shirt was torn and bloody. After a few minutes, both § 87(2)(b) and § 87(2)(b) were released, and an officer told her that their arrests had been voided. Both § 87(2)(b) and § 87(2)(b) then returned to the scene of the fire because they were concerned for the safety of their family members. § 87(2)(b) was not injured as a result of this incident. Between June 23, 2005 and September 7, 2005, the CCRB called § 87(2)(b) five times and sent three contact letters to her home address. § 87(2)(b) scheduled appointments for CCRB interviews on July 1, 2005 and July 27, 2005, but she failed to appear for both of these appointments.

Results of Investigation

§ 87(2)(b)

CCRB Statement

The CCRB interviewed § 87(2)(b) on October 12, 2005 (enclosures 10a-10b). § 87(2)(b) Although § 87(2)(b) refused to allow the CCRB to record his in-person statement, he provided the unedited footage of the incident on digital video. § 87(2)(b) is a black male, 6'4", and 220lbs. § 87(2)(b) stated that he had a police radio scanner that he used to locate this incident. § 87(2)(g)

When § 87(2)(b) arrived at § 87(2)(b) he observed that the building was on fire and several fire trucks and an ambulance were already at the location. § 87(2)(b) stood approximately twenty-five feet away from the front door of the building as he filmed rescue personnel attempt to stop the fire. After approximately fifteen minutes, § 87(2)(b) heard a firefighter call a "mayday." § 87(2)(b) stated that he heard this call come over the firefighters' radios and that this call indicates a firefighter in distress. Once the "mayday" was called, several firefighters entered the building in an attempt to assist. At this point, § 87(2)(b) noticed a civilian, later identified as § 87(2)(b) walk towards the building. § 87(2)(b) stated that § 87(2)(b) was visibly upset, but he could not recall what § 87(2)(b) was saying at the time. § 87(2)(b) stated that although he could not understand what § 87(2)(b) said, he was clearly concerned about a family member inside. § 87(2)(b) approached the front door of the building and tried to get inside. § 87(2)(b) stated that there were several firefighters at the front door of the building attempting to remove an injured firefighter at the time when § 87(2)(b) first approached. § 87(2)(b) tried to push by the firefighters and enter the building. At this point, one of the firefighters yelled, "PD, PD, get this guy out of here." § 87(2)(b) stated that no police officers were at the front door of the building prior to that point.

At least one officer (white male, wearing an Atlanta Falcons jersey), PO1, approached § 87(2)(b) as he was on the landing in front of the building. § 87(2)(b) stated that there were "blows thrown" between PO1 and § 87(2)(b). (§ 87(2)(b) also indicated that these blows were thrown before he was able to resume filming, and thus this part of the incident is not on the tape.) When the CCRB asked § 87(2)(b) to elaborate, he stated that he could not remember who struck whom. § 87(2)(b) resumed filming and witnessed several officers pull § 87(2)(b) down off of the steps and throw him to the

ground. § 87(2)(b) stated that PO1 also struck § 87(2)(b) with a radio and another officer struck § 87(2)(b) with a baton several times. § 87(2)(b) was unable to see what happened to § 87(2)(b) while he was on the ground, but stated that several officers continued to strike him for approximately thirty seconds. The officers then stood § 87(2)(b) up and escorted him away from the scene. When the CCRB asked § 87(2)(b) to provide more details about the force used against § 87(2)(b) during this incident, § 87(2)(b) stated that he could not provide any additional details.

Attempts to Identify Additional Civilian Witnesses

On July 15, 2005, the CCRB canvassed the incident location, § 87(2)(b) in Brooklyn (enclosure 27a-27c). The CCRB spoke with six individuals who lived in the neighborhood but did not witness the incident. The CCRB left several contact letters at the following addresses on § 87(2)(b). The CCRB also took several photographs of the incident location, specifically the steps and landing in front of the building.

Video Evidence

After obtaining the unedited footage of the incident from § 87(2)(b) the CCRB placed the footage on a DVD and broke the relevant footage into several segments (enclosure 11a). Although there is audio, the considerable amount of background noise muffles any voices.

The first scene is the entire unedited footage provided by § 87(2)(b). The footage is approximately seven minutes long and shows a violent fire burning at § 87(2)(b). The footage also shows a large amount of emergency personnel and vehicles in the area. This footage also contains a short clip of approximately ten seconds, § 87(2)(b). The second segment of the DVD shows this small segment of footage in real time. The third segment of the DVD shows this ten second segment in slow motion.

At the beginning of the relevant footage, § 87(2)(b) is facing away from the building, at the top of the front steps. § 87(2)(b) is holding onto the railings and several police and firemen are in the immediate vicinity. Behind § 87(2)(b) in the front door of the building, there are three firefighters who appear to be struggling to bring an injured person (possibly another firefighter) out of the building. Also behind § 87(2)(b) on his right side, there is a plainclothes NYPD officer, wearing an Atlanta Falcons #7 jersey and holding a radio in his right hand. This officer, spot-shadowed in the DVD segment labeled "Officer #2" (PO1 in § 87(2)(b)'s statement, and identified through investigation as PO Houlihan) strikes § 87(2)(b) with the butt end of his radio behind § 87(2)(b)'s right ear. There are two additional uniformed officers, spot-shadowed in the DVD segments labeled "Officer #3" and "Officer #4" (PO3 and PO4 in § 87(2)(b)'s statement, and identified through investigation as PO Roth and PO Gulizio) who are positioned at the base of the steps. These two officers face § 87(2)(b). § 87(2)(b) grab his shirt from the chest area, and pull him down the steps. As these officers pull § 87(2)(b) down the steps, a fourth uniformed officer is positioned directly on the right side of § 87(2)(b). This officer, spot-shadowed in the DVD segment labeled "Officer #1" (PO2 in § 87(2)(b)'s statement, and identified through investigation as PO Cahill) strikes § 87(2)(b) twice in the chest with a contracted asp. As the other officers pull § 87(2)(b) down the steps, PO Cahill strikes him with the extended asp in a downward motion. This strike hits § 87(2)(b) on his rear right shoulder. PO Roth and PO Gulizio pull § 87(2)(b) to the ground, and he is no longer visible after this point in the video. However, as § 87(2)(b) is on the ground, PO Cahill strikes § 87(2)(b) two additional times with the asp extended, using an overhand motion. Because § 87(2)(b) is not visible, the video does not clearly show where these strikes contact § 87(2)(b). As § 87(2)(b) is on the ground, firefighters go up the steps and assist with the injured individual. There is no additional footage showing § 87(2)(b) or NYPD officers.

Officer Statements

PO Michael Houlihan

CCRB Statement

The CCRB interviewed PO Houlihan on May 12, 2006 (enclosures 12a-12d). PO Houlihan is a § 87(2)(b) year-old white male, 5'8", 230lbs, with brown hair and blue eyes. The CCRB showed PO Houlihan the video footage of this incident both before and after he provided a statement.

On June 14, 2005, PO Houlihan was assigned to SNEU, but he could not recall exactly what hours he worked on that day, or who he was working with at the time. PO Houlihan was wearing plainclothes, a number 7 Atlanta Falcons football jersey. PO Houlihan was inside the 71st Precinct station house when he heard over the radio that there was a fire at § 87(2)(b) and several individuals had jumped out of windows at that location. PO Houlihan responded to the location, possibly with another officer. PO Houlihan could not recall what he was doing at the station house, who he responded to the location with, or approximately what time he arrived at the scene.

When PO Houlihan arrived at the location, the building was on fire and there were several fire trucks and ambulances already at the scene. PO Houlihan stated that he was not the first officer at the scene, but he could not estimate a number of additional officers that had already responded. PO Houlihan stated that he never spoke with a supervisor when he arrived, and he never conferred with any officers regarding the situation. Someone (who PO Houlihan could not identify) stated over the radio that the fire was started by someone from the building. This individual also put out a description of this perpetrator, but PO Houlihan could not recall that description. PO Houlihan approximated that there were one hundred civilians in the street around the building, and he immediately started to look through the crowd for anyone who fit the description of this perpetrator. Within the crowd, there was a group of approximately fifteen civilians that were banging on and punching a parked civilian vehicle in the area. PO Houlihan stated that these civilians smashed the windshield of this vehicle. PO Houlihan believed that these people were from the area and knew the individuals inside the burning building, and that they were damaging the vehicle out of concern for their loved ones. PO Houlihan stated that he never addressed any of these civilians or instructed them to disperse at any time. PO Houlihan also stated that no other officer ever took any actions to control this crowd or issued any instructions to them of any kind. At that time, PO Houlihan was in the immediate vicinity and continued to look for the perpetrator within the crowd directly in front of the burning building. During this time, at least three individuals (not including § 87(2)(b)) attempted to enter the burning building. PO Houlihan could not describe any of these individuals, but he stated that one female picked up an axe and tried to get inside the building. PO Houlihan stated that no officers ever interacted with any of these individuals or attempted to prevent them from going up the front steps of the building. Instead, firefighters in the area restrained these people as PO Houlihan watched from the street.

After approximately thirty minutes, PO Houlihan spoke with a firefighter in front of the steps to the building. PO Houlihan could not identify or describe this firefighter. The firefighter told PO Houlihan that he and the other officers needed to do something to prevent these individuals from crowding the front of the building. While they were speaking, § 87(2)(b) rushed past them and went up the steps to the building's entrance. The firefighter said to PO Houlihan, "Go get him." PO Houlihan followed § 87(2)(b) up the steps as § 87(2)(b) approached the front door. PO Houlihan could not recall exactly what § 87(2)(b) was doing or saying at this time. One of the firefighters in the area (PO Houlihan did not know who) yelled, "What the fuck are you doing. Get him the fuck out of here." PO Houlihan (who was immediately to § 87(2)(b)'s left at the top of the stairs) said to § 87(2)(b) "Come on, we've got to get out of here." PO Houlihan stated that he was very calm and did not yell at § 87(2)(b) because he understood that the situation was very stressful. (The CCRB asked PO Houlihan if he was aware that § 87(2)(b) had loved ones inside the building at that time, but PO Houlihan stated that he was only aware of that after the incident.) PO Houlihan also stated that he never used profanity at any point during this incident.

§ 87(2)(g) Initially, PO Houlihan stated that he grabbed § 87(2)(b) by the arm (as he was facing the door), and § 87(2)(b) immediately turned and punched PO Houlihan directly in the chest with a closed fist. Later in the interview, PO Houlihan stated that after grabbing § 87(2)(b) by the arm, he pulled away from PO Houlihan. PO Houlihan then attempted to grab § 87(2)(b) in the same

way, and it was at that point that § 87(2)(b) punched him in the chest. The force of this blow caused PO Houlihan to take a few steps back and nearly fall off the landing area. At some point (as PO Houlihan was falling back onto the railing) § 87(2)(b) cut PO Houlihan's left forearm. When the CCRB asked PO Houlihan to further describe § 87(2)(b)'s movements which caused this cut, PO Houlihan was unable to do so. PO Houlihan stated that he was positive that § 87(2)(b) caused this cut, but he did not see exactly how because he was falling back onto the railing at the time. PO Houlihan further stated that he believed that § 87(2)(b) was holding some sort of a sharp object, possibly a razor blade, at the time because the cut was fairly deep. During the interview, PO Houlihan also showed the CCRB a scar of approximately six inches in length on his left forearm, which was allegedly from the laceration that § 87(2)(b) caused. PO Houlihan stated that he never informed any supervisor either at the scene or later at the station house about this injury. PO Houlihan never requested medical treatment, completed any paperwork, or went LOD as a result of this injury. Additionally, even though PO Houlihan suspected that § 87(2)(b) had a weapon, he never informed any other officers about it.

After § 87(2)(b) cut PO Houlihan, he grabbed § 87(2)(b) again by the arm and shoulder and forced him around to turn towards the steps. By that time, there were several other uniformed officers on the steps. PO Houlihan was behind § 87(2)(b) at this point. PO Houlihan confirmed that he was holding his radio in his right hand, but denied ever striking § 87(2)(b) with the radio at any point during this incident. PO Houlihan stated that he tried to grab § 87(2)(b)'s hair from behind with his right hand, and at the same time he tried to grab onto § 87(2)(b)'s waistband with his left hand. PO Houlihan stated that he was intending on forcing § 87(2)(b) off of the steps to the right using this maneuver, but he decided not to do so because the steps were too crowded. PO Houlihan also stated that his radio never came into contact with § 87(2)(b)'s head at any point during this incident. One of the other officers (PO Houlihan did not know who) struck § 87(2)(b) with an asp as he was on the steps. PO Houlihan stated that this officer struck § 87(2)(b) several times with the asp, but he never saw any other officer strike § 87(2)(b) in any way. The officers and firefighters then pulled § 87(2)(b) down off of the steps and face down on the ground. At this point, PO Houlihan was still on the steps and could not see exactly what force was being used against § 87(2)(b) as he was on the ground, and he could not see if § 87(2)(b) was resisting at this point. PO Houlihan stated that he never had any physical contact with § 87(2)(b) after he had been brought to the ground.

The other officers handcuffed § 87(2)(b) and stood him up. When the CCRB questioned PO Houlihan about a comment regarding "heroes" and "Iraq," he confirmed that he said to § 87(2)(b) at this point, "If you want to be a hero, join the military." PO Houlihan stated that he never used profanity when he made that comment, and § 87(2)(b) responded by apologizing repeatedly. PO Houlihan stated that § 87(2)(b) did not appear to be injured at this point, and he was not bleeding. Two officers (PO Houlihan could not recall who) escorted § 87(2)(b) down the block and transported him to the station house. After this point, PO Houlihan never saw or interacted with § 87(2)(b) again. PO Houlihan was not aware of what ultimately happened with § 87(2)(b)'s arrest, he was not aware if § 87(2)(b) sustained any injuries, or requested or received any medical attention as a result of this incident.

After § 87(2)(b) was escorted away from the scene, PO Houlihan went to an ambulance and put some alcohol on the cut that he sustained during the incident. He walked down § 87(2)(b) alone to "cool off." As PO Houlihan was walking a white male cameraman (who PO Houlihan was sure had recorded this incident on video) approached him in the street. This individual said to PO Houlihan, "You should have beaten him like the nigger he is." PO Houlihan calmly replied, "I don't appreciate that, my girlfriend is black." The cameraman then called PO Houlihan a "nigger-lover." PO Houlihan did not respond and continued to walk down the street. PO Houlihan then came into contact with a white male still-photographer who said, "You shouldn't let that bother you." PO Houlihan continued down the block alone, and after approximately thirty minutes to one hour, he left the scene and returned to the station house where he ended his tour. PO Houlihan stated that he did not interact with any additional civilians at the scene of this incident.

After PO Houlihan provided his statement, the CCRB showed him the video footage of the incident. PO Houlihan identified himself as the officer in the number 7 Atlanta Falcons jersey; spot-shadowed in the segment labeled "Officer #2." PO Houlihan was unable to identify any of the other officers in the video. PO Houlihan also could not identify any of the firemen who he spoke with at the scene of the incident. After watching the video several times, PO Houlihan again stated that he never struck § 87(2)(b) with a radio at any point during this incident. The motion depicted on film was of

the movement which PO Houlihan described in his statement previously, where he tried to grab § 87(2)(b) by the hair while holding the radio in his right hand. PO Houlihan stated that he was not aware of any circumstances under which it would be acceptable to strike someone with a radio, and he has never received any training regarding the use of radios as impact weapons. However, PO Houlihan stated that in the Police Academy he was instructed not to strike civilians with a radio under any circumstances.

PO Matthew Cahill

Memo Book

PO Cahill's memo book (enclosures 13a-13c) confirms that he responded to a fire at § 87(2)(b) at 3:00am on June 14, 2005. At 3:25am, PO Cahill arrested § 87(2)(b) for § 87(2)(b). § 87(2)(b) was transported back to the station house by PO Moschetto and PO Roth. At 3:45am, PO Cahill noted that he also arrested § 87(2)(b). At 4:50am, both individuals were released as a courtesy because their family members had died in the fire.

Arrest Reports

Arrest Report § 87(2)(b) (enclosures 14a-14d) confirms that PO Cahill arrested § 87(2)(b) at 3:30am on June 14, 2005 at § 87(2)(b) § 87(2)(a) 160.50
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Arrest Report § 87(2)(b) (enclosures 14e-14h) confirms that PO Cahill arrested § 87(2)(b) at 3:45am at the same location. § 87(2)(a) 160.50
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB Statement

The CCRB interviewed PO Cahill on November 15, 2005 (enclosures 15a-15c). PO Cahill is a § 87(2)(b) year-old white male, 5'7", 180lbs, with very short brown hair and hazel eyes. Before the interview, the CCRB showed PO Cahill the footage of the incident on DVD. PO Cahill saw the entire footage as well as the slow motion segment § 87(2)(b). § 87(2)(g)

On June 14, 2005, PO Cahill was working with PO Gulizio in a marked van. At approximately 3:00am, PO Cahill heard that there was a serious fire (10-59) at § 87(2)(b) in Brooklyn, and he and PO Gulizio responded to the location. When they arrived at the location, PO Cahill saw over fifty firefighters and EMTs, as well as over seventy-five uniformed and plainclothes police officers from various commands. In addition, there was a large crowd of approximately one hundred fifty to two hundred civilians at the scene. PO Cahill immediately went to control the crowd. PO Cahill stated that he stood across the street from § 87(2)(b) trying to keep the civilians on the sidewalk and away from danger. After a few minutes, PO Cahill heard some yelling coming from the front door of § 87(2)(b). When he turned around, PO Cahill saw § 87(2)(b) on the landing in front of the building, struggling with firefighters. Several firefighters were trying to bring a hose through the door and were also attempting to remove an injured firefighter from the building at the time. PO Cahill saw § 87(2)(b) push several firefighters from behind, in an attempt to enter the building.

PO Cahill then went up the steps to the landing where § 87(2)(b) was standing and said, "Get off the steps. Sir, get off the steps." § 87(2)(b) did not say anything and continued to try and enter the building. PO Cahill then grabbed § 87(2)(b)'s arm, but he pulled away from PO Cahill's grasp. At this point, PO Roth was also on the landing and attempted to grab § 87(2)(b). PO Cahill stated that § 87(2)(b) then started to swing his arms and push the officers away. When the CCRB asked PO Cahill to provide more detail, he stated that § 87(2)(b) threw a punch at PO Roth but did

not connect. PO Cahill then took out his asp and used it to strike § 87(2)(b). When the CCRB asked PO Cahill why he made this decision, he stated that he was concerned for the safety of the people in the area. PO Cahill also added that his previous attempts to remove § 87(2)(b) from the area were unsuccessful and § 87(2)(b) was a large person. PO Cahill struck § 87(2)(b) approximately three times with the contracted asp, using a downward motion. PO Cahill stated that he had intended on striking § 87(2)(b) in the upper arm with the side of the weapon, but he could not recall exactly where the asp made contact with § 87(2)(b)'s body. PO Cahill also stated these blows happened before the segment of the incident depicted on the video footage.

PO Cahill initially stated that after he grabbed § 87(2)(b)'s arm, § 87(2)(b) turned away from the doorway and faced the street. However, later in the interview, PO Cahill stated that § 87(2)(b) turned to face the street after the blows from the asp. PO Cahill also stated that after he struck § 87(2)(b) with the asp, "he started to slowly come down the steps." PO Cahill then clarified that he was not sure if § 87(2)(b) was walking down the steps on his own, or if he was being pushed down the steps by someone from behind. As § 87(2)(b) was walking down the steps, PO Cahill struck § 87(2)(b) again with the extended asp. PO Cahill was on § 87(2)(b)'s right side, and he used a sidearm motion to strike § 87(2)(b) approximately three times. PO Cahill stated that his intentions were to strike § 87(2)(b) in the right arm or right leg, but he could not recall where (if at all) the asp made contact with § 87(2)(b)'s body. During the interview, PO Cahill confirmed that these blows could be seen on the video.

At this point, an unidentified firefighter tackled § 87(2)(b) as PO Roth and two other unidentified officers pulled him to the ground at the base of the steps. § 87(2)(b) wrestled with the firefighter as they were on the ground with the three other officers. During this struggle, § 87(2)(b) was swinging his arms and throwing punches at the officers. PO Cahill stated that he did not see any officers (including himself) strike § 87(2)(b) or use an asp against him as he was on the ground. PO Cahill was not directly involved in this struggle at first, and he waited for a few seconds before taking any action. As § 87(2)(b) was face down on the ground, PO Cahill grabbed one of his arms and handcuffed him with the assistance of the other officers. PO Cahill then stood § 87(2)(b) up and escorted him to a marked patrol car with PO Roth. PO Cahill stated that, as they were walking, he had to pull § 87(2)(b) along because he seemed like he wanted to stay at the scene. PO Cahill stated that he could not recall § 87(2)(b) saying anything at any point while they were at the scene. PO Roth and PO Moschetto transported § 87(2)(b) to the station house.

PO Cahill stayed at the scene for another ten minutes before going back to the station house. When he arrived, § 87(2)(b) was alone inside the holding cell. PO Cahill could not recall any visible injuries on § 87(2)(b) at the time, but he asked him if he wanted to see EMS. § 87(2)(b) said that he did not want any medical attention. The desk officer, Sgt. Mangan, then informed PO Cahill that § 87(2)(b)'s in-laws had died in the fire, and Sgt. Mangan subsequently voided § 87(2)(b)'s arrest and released him. PO Cahill also stated that § 87(2)(b) was arrested at the scene, but he did not see the circumstances of this arrest. PO Cahill stated that he never heard any officer use profanity at any point during this incident.

After PO Cahill provided his statement, the CCRB showed him the video footage of the incident for a second time. PO Cahill identified himself as the officer spot-shadowed in the first segment, and he identified PO Roth as the officer spot shadowed in the fourth segment. The footage showed PO Cahill striking § 87(2)(b) twice in the chest with the contracted asp and then three times with the expanded asp. PO Cahill stated that he had previously described these blows as "sidearm," and were intended to hit § 87(2)(b) in the upper arm. After viewing the footage for a second time, PO Cahill stated that he could not recall striking § 87(2)(b) with the asp prior to the point where the footage begins. PO Cahill was unable to identify the officer in the Atlanta Falcons jersey, and stated that he had no independent recollection of this individual.

PO Peter Gulizio

CCRB Statement

The CCRB interviewed PO Gulizio on January 26, 2006 (enclosures 17a-17b), and he had no relevant memo book entries. PO Gulizio is a § 87(2)(b)-old white male, 5'9", 200lbs, with brown hair and brown eyes. § 87(2)(g)

On June 14, 2005, PO Gulizio was assigned to prisoner transport with PO Cahill. Both officers were in uniform and assigned to a marked van. PO Gulizio and PO Cahill responded to the scene of the fire at approximately 3:30am. When they arrived, there were numerous fire trucks, ambulances, and marked RMPs. PO Gulizio estimated that there were approximately five to ten uniformed officers already at the scene when they arrived, but he could not identify any of them. In front of the building, approximately ten civilians had gathered in the street, and PO Gulizio immediately approached this group. PO Gulizio instructed the civilians to keep the street clear and remained in the area in order to control the crowd. At the time, PO Gulizio was alone and not aware of PO Cahill's whereabouts or actions. After conducting crowd control for approximately twenty minutes, PO Gulizio heard someone yell, "PD get this guy out of here." PO Gulizio had been facing away from the building, and the voice came from the front steps of the building. When PO Gulizio turned around, he saw a large black male with dreadlocks, later identified as § 87(2)(b) on the front steps of the building. § 87(2)(b) was at the top of the steps, facing the street, and there were approximately three to four additional officers in § 87(2)(b)'s immediate vicinity. PO Gulizio could not recall who these officers were, and he could not recall what they were doing when he first saw them. PO Gulizio immediately approached the base of the steps, grabbed § 87(2)(b)'s shirt, and pulled him down off the steps. Both § 87(2)(b) and PO Gulizio fell to the ground, with § 87(2)(b) to the side of PO Gulizio. PO Gulizio stated that he did this because he wanted to get § 87(2)(b) off of the steps as quickly as possible. PO Gulizio believed that at the time, firefighters were attempting to remove an injured firefighter from the burning building.

As they were on the ground, PO Gulizio tried to grab § 87(2)(b)'s arms in order to handcuff him, but § 87(2)(b) locked his elbows to his side. Other officers attempted to grab § 87(2)(b)'s arms and handcuff him as well, but PO Gulizio could not describe these officers' specific actions because he was focused on § 87(2)(b). After approximately twenty seconds, officers successfully handcuffed § 87(2)(b) and stood him up. PO Gulizio could not recall who handcuffed § 87(2)(b) but confirmed that he did not. At that point, the officers escorted § 87(2)(b) away from the scene. PO Gulizio noted that he did not observe any physical injuries on § 87(2)(b) and he could not recall anything that § 87(2)(b) said during the incident. PO Gulizio never saw § 87(2)(b) again after he was removed from the scene, and he could not recall any additional civilians being arrested at the scene while he was there. PO Gulizio stated that he never saw any officer strike § 87(2)(b) at the scene, and he never heard any officer use profanity. PO Gulizio remained at the scene for an additional forty minutes (continuing with crowd control) before leaving the scene.

After PO Gulizio provided a statement, he viewed the DVD of the incident footage. PO Gulizio identified himself as the officer spot-shadowed in the third segment, PO Cahill as the officer spot-shadowed in the first segment, PO Houlihan as the officer spot-shadowed in the second segment, and PO Roth as the officer spot-shadowed in the fourth segment.

PO Christian Roth

CCRB Statement

The CCRB interviewed PO Roth on March 10, 2006 (enclosures 21a-21c). PO Roth is a § 87(2)(b) old white male, 5'8", 180lbs, with brown hair and green eyes. § 87(2)(g)

On June 14, 2005 at approximately 3:00am, PO Roth responded to the fire. Upon arrival, there were several fire trucks, ambulances, and police vehicles at the scene. PO Roth could not approximate how many officers were already at the scene, and he could not identify any of the officers. Almost immediately after arriving, PO Roth approached the front of the building and heard someone (possibly a firefighter) call for police. PO Roth was at the base of the steps and when he looked up he saw a large black male, later identified as § 87(2)(b) at the top of the steps. PO Roth noted that § 87(2)(b) was involved in a "shoving match" with people at the top of the steps in front of the building's door. PO Roth could not recall exactly who was involved in this shoving match, but he believed that it was either a firefighter or a police officer. PO Roth stated that he saw § 87(2)(b) pushing emergency personnel, and it appeared as if he was trying to get inside the burning building. PO Roth stated that there was an officer in plainclothes at the top of the steps who was pushing § 87(2)(b) away from the front door of the building. PO Roth could not describe these pushes in any greater detail because the situation was quite

hectic. PO Roth also noted that firefighters were trying to remove an injured firefighter from the front doors of the building at the time.

PO Roth stated that the plainclothes officer as well as approximately four uniformed officers then pushed § 87(2)(b) down the steps and brought him to the ground. PO Roth could not recall the exact actions of the other officers in the area, and he could not independently recall any officer striking § 87(2)(b) with an asp or a radio at the time. PO Roth also could not remember if § 87(2)(b) turned around to go down the steps or was forced to do so by officers on the scene. PO Roth grabbed § 87(2)(b) by the left wrist and tried to pull him down off the steps. § 87(2)(b) was pulling back and away from PO Roth. Eventually, PO Roth and the other officers pulled § 87(2)(b) to the ground, and he fell face down on the sidewalk in front of the steps. PO Roth stated that he and four other officers were trying to handcuff § 87(2)(b) at that time, but he could not recall exactly who. PO Roth believed that PO Cahill was involved in the struggle. PO Roth could not recall if any other officers struck § 87(2)(b) as he was on the ground, but he stated that he never punched, kicked, or struck § 87(2)(b) at any time during this incident. As they were on the ground, PO Roth was holding on to § 87(2)(b)'s arm and trying to bring it behind his back to handcuff him. § 87(2)(b) was pulling away from PO Roth and trying to stand up as well. PO Roth could not describe any of the other officers' actions, but confirmed that he continued to try and pull § 87(2)(b)'s arm around his back. § 87(2)(b) continually yelled that he was concerned about his family because they were inside. PO Roth never heard any officer use profanity during the struggle in response to § 87(2)(b). After a few seconds, PO Roth and another unidentified officer were able to handcuff § 87(2)(b) and stand him up. At that time, Sgt. Espinoza (who was not involved in the struggle with § 87(2)(b)) instructed PO Roth to bring § 87(2)(b) to the station house immediately. PO Roth and another officer, possibly PO Moschetto, escorted § 87(2)(b) to a marked RMP and placed him inside the vehicle. PO Roth could not recall whether he was the passenger or driver inside the RMP.

PO Roth noted that § 87(2)(b) did not appear to be injured, and he could not recall if § 87(2)(b) was bleeding at any time during the incident. On their way to the station house, § 87(2)(b) continued to express concern for his family, and PO Roth tried to explain that he was impeding fire operations. PO Roth stated that neither he nor PO Moschetto used profanity while inside the RMP. When they arrived at the station house, the officers escorted § 87(2)(b) to the front desk. PO Roth maintained that § 87(2)(b) did not appear to be injured, but he could not recall whether he ever asked § 87(2)(b) if he needed medical attention. PO Roth also could not recall interacting with § 87(2)(b) as he was inside the holding cell area. PO Roth could remember that § 87(2)(b) did challenge to fight him, but PO Roth did not reply. After checking § 87(2)(b) in, PO Roth returned to the scene of the fire with PO Moschetto. When they got back to the fire, PO Roth tried to keep the crowd away from the burning building. When the CCRB questioned PO Roth about another individual arrested at the scene, he stated that he could vaguely remember transporting a large black woman to the station house as well. PO Roth could not recall any details of her arrest, and he could not recall if he handcuffed her or was involved in her arrest either. PO Roth remembered that he escorted her to a marked RMP and she was very sweaty at the time. PO Roth could not describe her demeanor and he could not recall if they ever exchanged words in the RMP or before.

After transporting the female to the station house, PO Roth returned to the scene of the fire again. After some time, PO Roth could not recall exactly how much time, § 87(2)(b) also returned to the scene of the fire. PO Roth remembered that § 87(2)(b) was walking around with what appeared to be his family members, and he believed that § 87(2)(b) had a bandage on his forehead. PO Roth stated that he did not interact with § 87(2)(b) at this time, and was not aware of what eventually happened with his arrest or the female's arrest.

After the interview, PO Roth viewed the DVD footage of this incident. Although the video footage clearly shows officers striking § 87(2)(b) with an asp and a radio, PO Roth stated that he could not independently recall any blows of this nature dealt to § 87(2)(b) at the scene. PO Roth identified PO Cahill as the officer spot-shadowed in segment number one, and he identified himself as the officer spot-shadowed in segment number four. PO Roth believed that the officer spot-shadowed in segment number two had a name that began with "H" (possibly PO Houlihan). PO Roth could not identify the officer spot-shadowed in segment number three.

PO Matthew Moschetto

CCRB Statement

The CCRB interviewed PO Moschetto on December 16, 2005 (enclosures 19a-19b). PO Moschetto is a § 87(2)(b) -old white male, 5'9", 185lbs, with brown hair and blue eyes. PO Moschetto provided a statement and then watched the video footage of the incident. § 87(2)(g)

On June 14, 2005 at approximately 3:00am, PO Moschetto responded to a fire at § 87(2)(b) in Brooklyn. When he arrived at the scene, the building was violently burning. PO Moschetto heard a call for help coming from the rear of the building, and he went through a small alley between the § 87(2)(b) and the neighboring building. An elderly woman was in the alley, and her path out was somewhat blocked by flames coming from a window and falling debris. PO Moschetto placed his arm around the woman's head, shielding her from the debris, and walked her out of the alley. PO Moschetto then escorted the woman to the front of the building, and she sat down on the steps of one of the neighboring buildings. PO Moschetto then proceeded west to the intersection of § 87(2)(b) and Kingston Avenue (in order to control emergency traffic), approximately 200 to 300 feet away from the front of the burning building. From this distance, PO Moschetto could see the smoke coming from the building, but he could not see the front steps.

After approximately twenty minutes, two uniformed officers (who PO Moschetto could not identify) approached PO Moschetto at the intersection. They were escorting a handcuffed large black male with dreadlocks, later identified as § 87(2)(b). § 87(2)(b) appeared to be wet and dirty, but PO Moschetto did not see any visible injuries. § 87(2)(b) was clearly upset, and he was yelling something about his parents or family. PO Moschetto stated that § 87(2)(b) was not physically resisting. The officers informed PO Moschetto that § 87(2)(b) had been placed under arrest. PO Moschetto then placed § 87(2)(b) inside RMP 1383 and transported him to the station house with PO Roth. PO Moschetto was the driver, and PO Roth was in the front passenger seat. On their way to the station house, inside the vehicle, § 87(2)(b) started to calm down and apologized to the officers. When the CCRB asked PO Moschetto what § 87(2)(b) was apologizing for, he stated that § 87(2)(b) continually repeated, "I'm sorry." Neither PO Moschetto nor PO Roth spoke with § 87(2)(b) inside the vehicle, and PO Moschetto stated that neither he nor PO Roth ever used profanity.

When they arrived at the station house, PO Moschetto and PO Roth escorted § 87(2)(b) to the desk to speak with the desk officer (PO Moschetto could not recall the name of the desk officer). While they were standing in front of the desk, PO Moschetto asked § 87(2)(b) if he was injured and if he wanted to go to the hospital. § 87(2)(b) responded "no" to both questions, and PO Moschetto and PO Roth then placed him inside a holding cell. PO Moschetto stated that § 87(2)(b) still did not appear to be injured and had calmed down significantly. After they placed PO Moschetto inside the holding cell, both officers returned to the scene of the fire. PO Moschetto stated that neither he nor PO Roth ever used profanity while interacting with § 87(2)(b) at the station house.

Immediately after arriving at the scene of the fire, an unidentified officer told PO Moschetto to escort a large black woman, who had also been arrested, back to the station house as well. PO Moschetto remained in the vehicle, as the other officers placed the woman inside the car. PO Roth exited the car and another unidentified officer got in with the woman. PO Moschetto stated that he never witnessed her arrest and was not aware of the circumstances surrounding her arrest. The woman did not appear to be injured, but was visibly upset. PO Moschetto could not recall what she was saying and never spoke with her. When they arrived at the station house, the other officer escorted the woman inside and PO Moschetto returned to the scene. PO Moschetto remained at the scene, directing traffic, until 12:00pm. After that, he spent five additional hours at the precinct completing paperwork about the incident. PO Moschetto prepared complaint reports and vouchers for the three to four individuals that perished in the fire. PO Moschetto never prepared any paperwork about the two arrests that were made, and he never interacted with or saw either of the two individuals that had been arrested after he returned to the station house.

After the interview, PO Moschetto viewed the footage of the incident on DVD for the first time (specifically the slow motion segment with § 87(2)(b) on the steps) and confirmed that he never saw any of those events take place at the time. PO Moschetto identified PO Cahill as the officer on § 87(2)(b)'s left, and he identified PO Roth as the officer to § 87(2)(b)'s right at the base of the steps. PO Moschetto could not identify any other officers on the DVD, however he stated that the man

wearing the Atlanta Falcons jersey was familiar. PO Moschetto did not know his name, but he believed that the officer might have been from his command.

Police Documents

Unusual Occurrence Report

The Unusual Occurrence Report prepared for this incident (enclosures 22a-22b) confirms that three individuals, § 87(2)(b), § 87(2)(b) and § 87(2)(b) died in the fire at § 87(2)(b) on June 14, 2005. § 87(2)(b) had a dispute with his daughter's boyfriend, § 87(2)(b). As a result of this dispute, § 87(2)(b) stabbed § 87(2)(b) and then set fire to the building. § 87(2)(b) and § 87(2)(b) were not involved in this dispute, as they lived in the upstairs apartment. A level one mobilization was activated, ESU, Nightwatch, and Crime Scene units responded to the location. § 87(2)(b)

Aided Reports

The Aided Reports prepared in connection with this incident (enclosures 23a-23t) confirm that § 87(2)(b), § 87(2)(b) and § 87(2)(b) died in the fire at § 87(2)(b) on June 14, 2005. Also, § 87(2)(b) was stabbed in the hand during a dispute and was removed from the scene by EMS.

Sprint Print-Outs

The Sprint print-outs for this incident (enclosures 24a-24z) confirm that six individuals independently called 911 to report a fire at § 87(2)(b) at 3:00am, 3:02am, 3:04am, 3:06am, 3:08am, and 3:10am on June 14, 2005. The callers also added that an unknown male had been stabbed, several people were trapped inside the building, and someone had jumped off of the roof of the building in an attempt to escape the fire. At 3:03am, several EMS and FDNY units picked up the job and responded to the location. The following PD units also responded during the incident: 71ST1, 71PP, 71SP18, 71G, 71D, 67K, 67ST1. At 3:31am, a level one mobilization was activated.

71st Precinct Command Log

The 71st Precinct Command Log (enclosure 25a) confirms that PO Cahill arrived at the station house with § 87(2)(b) at 3:31am on June 14, 2005. The entry notes that § 87(2)(b) was initially charged with § 87(2) and his physical appearance was normal. The Command Log also notes that PO Cahill arrived with § 87(2)(b) at 3:45am. Although the entry notes that she was arrested at § 87(2)(b) it does not note the charges against her or her physical condition.

Criminal History of Civilian

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Substantiated CCRB Allegations which have resulted in the Imposition of Discipline

In CCRB case number 200412603, PO Houlihan had a gun drawn allegation, a refusal to provide name and shield allegation, and an arrest allegation substantiated. As a result, PO Houlihan received instructions. PO Cahill, PO Gulizio, and PO Roth have not had any allegations substantiated in their two, three, and three years of respective tenure. PO Houlihan has eight years of tenure (enclosures 2a-2e).

Status of the Court Cases

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Claims

As of the date of this report, there have been no hearings regarding § 87(2)(b)'s claim, and no hearings have been scheduled. Additionally, § 87(2)(b)'s claim has not yet been assigned to a claim examiner.

There are also two claims, each for the amount of \$20,000,000, under the names of § 87(2)(b) and § 87(2)(b) (enclosures 30j-30m). These claims are for the wrongful death of these two individuals, and they stated that New York City and NYFD maintained a defective and non-operational fire hydrant across the street from § 87(2)(b) causing a "delay in initiating firefighting operations." As of August 1, 2006, both of these two claims were under investigation by the New York City Comptroller's office.

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) described PO1 as a white male, 5'7", 170lbs, in his thirties, wearing an Atlanta Falcons jersey. PO Houlihan is a § 87(2)(b)-old white male, 5'8", and 230lbs. PO Houlihan also confirmed that he was wearing an Atlanta Falcons jersey at the time of the incident. § 87(2)(b) was unable to provide any details about PO2, PO3, PO4, or PO5 other than the fact that they were all uniformed white males. However, during their CCRB interviews all of the officers viewed the footage and identified themselves in the video. Their statements and the video evidence (showing their actions during the incident and their positions) confirm that PO1 is identified as PO Houlihan, PO2 is identified as PO Cahill, PO3 is identified as PO Gulizio, and PO4 is identified as PO Roth. PO5 is identified as PO Moschetto, as he confirmed that he was the officer who went with § 87(2)(b) and PO Roth to the station house.

Undisputed Facts

It is undisputed that on June 14, 2005, there was a fire at § 87(2)(b) which killed three people. § 87(2)(b)'s mother in-law and father in-law, § 87(2)(b) and § 87(2)(b) died in the fire, along with § 87(2)(b), who lived in the other unit of the building. § 87(2)(b) arrived at the scene and went up the front stairs of the building as FDNY and rescue personnel were attempting to remove an injured firefighter from the front door. § 87(2)(b) had a physical interaction with officers and firefighters at the top of the stairs. PO Houlihan used physical force against § 87(2)(b) while he was holding a radio in his hand. It is undisputed that PO Cahill struck § 87(2)(b) with an asp at least twice in the chest and three times to the back and shoulder. It is undisputed that PO Gulizio and PO Roth pulled § 87(2)(b) down the steps by his shirt. It is undisputed that § 87(2)(b) went to the ground, was handcuffed and removed from the scene. § 87(2)(b)'s arrest was later voided at the 71st Precinct.

Disputed Facts

§ 87(2)(g)

Analysis of Evidence

Although the video evidence is clear, it only depicts a small portion of the incident. There is no question that PO Houlihan struck § 87(2)(b) with a radio and PO Cahill struck him several times with an asp. § 87(2)(g)

§ 87(2)(b) alleged that PO Houlihan struck him once with the radio before the video begins, and he also alleged that PO Cahill struck him at least four times with an asp before the footage commences. The video evidence also seems to show that § 87(2)(b) is offering little resistance, as he appears to only be bracing himself by holding onto the railings of the steps. However, § 87(2)(b) admitted that he slapped PO Houlihan's hands away, and the officers stated that he was clearly resisting throughout the incident.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) First, the fact that PO Houlihan admitted that he made comments to § 87(2)(b) about being a hero and Iraq. With the exception of the profanity, PO Houlihan's comment almost directly corroborated § 87(2)(b)'s quote. Secondly, PO Houlihan denied ever striking § 87(2)(b) with a radio, and he denied that his radio ever came into contact with § 87(2)(b) at any point. The video evidence conclusively shows him striking § 87(2)(b) in the head with the radio from behind. § 87(2)(g)

§ 87(2)(g)

[REDACTED] Specifically, during his CCRB interview PO Cahill first stated that he struck § 87(2)(b) approximately three times with the asp before the footage begins. However, he later changed his statement, saying that the only blows that PO Cahill dealt with the asp were depicted on the video. § 87(2)(g)

[REDACTED]

At the beginning of the footage, § 87(2)(b) is facing away from the building, and he was not in physical contact with any officer at that point in time. § 87(2)(g)

[REDACTED] (PO Gulizio was unable to remember what § 87(2)(b) was doing at the top of the steps, and PO Roth offered little additional information, saying that there was a "shoving match.") According to the officers, the only thing that they had to do to turn § 87(2)(b) around was grab his arm, and the most severe force occurred after this point while § 87(2)(b) was filming. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) also alleged ten to thirteen additional blows after he had been taken to the ground. § 87(2)(b) stated that the officers struck § 87(2)(b) for approximately thirty seconds after he was pulled off of the steps. § 87(2)(g) the video evidence shows that PO Cahill struck § 87(2)(b) with an asp at least one time after § 87(2)(b) had been pulled off of the steps and was on the ground. § 87(2)(g)

It appears that there is only a brief struggle of approximately two seconds after § 87(2)(b) is taken to the ground. PO Cahill alleged that during this time, § 87(2)(b) was heavily resisting and throwing punches at officers. PO Roth and PO Gulizio § 87(2)(g) described § 87(2)(b) resisting only by pulling away and trying to stand up. Although PO Roth and PO Gulizio provided a description of their own actions during this struggle on the ground, they were both unable to confirm or deny that officers dealt additional blows to § 87(2)(b) after he had been taken to the ground.

Allegations

Allegation A: PO Michael Houlihan spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Houlihan used profanity at several different points during this incident. First, when § 87(2)(b) got to the top of the steps, PO Houlihan said, “What the fuck are you doing, get the fuck out of here.” Then, after § 87(2)(b) had been handcuffed, PO Houlihan allegedly said, “If you want to be a fucking hero, go to fucking Iraq,” and “get this piece of shit out of here.” § 87(2)(g)

PO Houlihan confirmed that he told § 87(2)(b) “If you want to be a hero, join the military.” PO Houlihan stated that he was calm when he made this comment to § 87(2)(b) § 87(2)(g)

In PD v. White (78667/03), the court acknowledged that there are instances where the use of profanity is not considered misconduct. Specifically, the court distinguished between the use of an expletive to gain cooperation and “a gratuitous disrespectful remark.” § 87(2)(g)

Allegation B: PO Michael Houlihan struck § 87(2)(b) with a radio.

§ 87(2)(g)

This exchange occurred before § 87(2)(b) began filming, and the video begins with PO Houlihan immediately hitting § 87(2)(b) in the head with the radio.

§ 87(2)(g)

In PD v. Sisto (1886/99), the court found that an officer did not commit misconduct when he struck a civilian with a flashlight because it was “merely circumstantial as opposed to a matter of intentional design.” § 87(2)(g)

§ 87(2)(g)

Allegation C: PO Matthew Cahill struck § 87(2)(b) with an asp.

The video evidence confirms that PO Cahill struck § 87(2)(b) several times in the chest with an asp. Also, PO Cahill struck § 87(2)(b) several times with the asp using an overhand motion, including at least one blow after § 87(2)(b) was on the ground and had been successfully removed from the steps. Patrol Guide Procedure 203-11 states, “Only that amount of force necessary to overcome resistance will be used to effect an arrest.” § 87(2)(g)

§ 87(2)(g)

The Police Student’s Guide Scale of Escalating Force confirms that these impact techniques (both with an asp and other blunt instruments) are to be utilized to overcome physical assault of resisting individuals. § 87(2)(g)

In PD v. Sisto (1886/99), the court found that “the use of force... must be manifestly or obviously unreasonable in order to constitute misconduct.” § 87(2)(g)

Allegation D: PO Matthew Cahill used physical force against § 87(2)(b)

Allegation E: PO Peter Gulizio used physical force against § 87(2)(b)

Allegation F: PO Christian Roth used physical force against § 87(2)(b)

Allegation G: PO Michael Houlihan used physical force against § 87(2)(b)

§ 87(2)(b) alleged that the four officers in his immediate area struck him an additional ten to thirteen times after he had been taken to the ground, but he could not describe the force in great detail. All of the officers interviewed denied striking § 87(2)(b) after he had been taken to the ground, although the video evidence shows PO Cahill struck § 87(2)(b) with an asp after he was on the ground and it appears the other officers employed some degree of force. However, the crowd in the area significantly obscured the view of § 87(2)(b) and the officers at this point on the video. § 87(2)(g)

Allegation H: An officer spoke rudely to § 87(2)(b)

Allegation I: An officer did not obtain medical treatment for § 87(2)(b)

Allegation J: An officer spoke rudely to § 87(2)(b)

Allegation K: Officers used physical force against § 87(2)(b)

§ 87(2)(b) was unable to specify which of the two officers who escorted him to the station house was the subject of allegations H and I, and he failed to appear for two scheduled appointments to view photographs. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: